

Tax & Legal Weekly Alert

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The list of the most relevant amendments to the Methodological Norms for the Application of the Tax Code

Amendments and additions to the Methodological Norms for the application of the Tax Code in respect of corporate income tax, micro-enterprise income tax, income tax, statutory social contributions and value added tax have been recently published in the Official Monitor.

The amendments bring clarifications and examples regarding the implementation of the measures introduced through the Government Emergency Ordinance no. 84/2016, focusing in particular on the following aspects:

Title I General provisions

A new section on the VAT treatment of transactions made by / from taxable persons having the VAT registration code canceled was introduced. Specifically, clarifications and examples were brought on:

- the exercise of the seller's deduction right for purchases made prior to re-registration (allowed even in the absence of a VAT code mentioned on the invoice);
- the method of computing the VAT collected (by the gross-up method when the price mentioned in the contract does not include VAT and the VAT cannot be cashed-in from the client or when the contract does not provide any reference in relation to VAT) as well as
- aspects regarding the reporting of the collected VAT (related forms) and the issuance of correction invoices after re-registration.

Title II – Corporate income tax

- The tax exemption for the profit invested in the acquisition of the right to use the software is applied for those programs acquired and used starting with January 1, 2017.
- Examples were provided regarding the method through which non-taxable income from the sale of participation titles is computed, as well as in regards to the determination of the management costs related to non-taxable income.
- Loans obtained directly or indirectly from international development banks, Romanian or foreign credit institutions, non-banking financial institutions are not included in the calculation of the borrowed funds.
- It is specifically mentioned that non-deductible interest expenses to be carried forward can be deducted on an unlimited period of time.
- Clarifications regarding the recovery of tax losses for taxpayers who apply the taxing system on microenterprise revenues have been introduced, depending on the period when the losses were incurred.

Title III – Micro-enterprise income tax

- Clarifications have been introduced regarding the applicability of microenterprise taxing system for legal entities subject to Law no. 170/2016 (HORECA), as follows:
 - The Romanian legal entities, which have not exceeded the equivalent in RON of EUR 100,000 and fulfil the other conditions regarding the microenterprise taxation system and have as main or secondary activity one corresponding to the NACE codes provided by the Law no. 170/2016 (HORECA) are subject to microenterprise tax.
 - Legal entities subject to tax according to Law 170/2016 are not subject to microenterprise tax starting with February 1, 2017, even though they obtain other income, which are subject to this law (HORECA).
- Clarifications regarding the provisions concerning the declaration and payment of the microenterprise tax starting with February 1, 2017, as follows:

- The income taken into consideration when fulfilling the conditions provided by the Tax Code for applying the microenterprise tax starting with February 1, 2017 are those booked at December 31, 2016.
- Revenue taken into consideration when leaving the microenterprise tax system throughout 2017 for the entities that have become subject to this tax starting with 1 February 2017 are those recorded after that date.
- Clarifications regarding the method of calculating, declaring and paying the microenterprise tax have been introduced for the taxpayers for which the value of the share capital has decreased up to the 45,000 RON level.
- Further clarifications regarding the method of declaring and paying the microenterprise tax have been introduced, for situations when the number of employees changes.

Title IV - Income tax

- Clarifications brought on the applicability of the income tax exemption for individuals who carry out seasonal activities. Seasonal nature of an activity is defined as:
 - Repetitive period year over year;
 - Activities carried out over fixed durations depending on season;
 - Activities classified under the following NACE codes: 5510, 5520, 5530, 5590, 5610, 5621, 5629 and 5630.
- Amendments to the methodological norms for the determination of the salary income tax by introducing the possibility to deduct subscription-based medical services paid by employees up to 400 EUR/year.
- Amendments to the methodological norms on the computation method applicable to the income tax due on transfer of property rights over real estate by aligning the norms and the formulas to the non-taxable amount of 450,000 RON.
- Amendments to the methodological norms on the reporting deadline for salary income derived from abroad by individuals who carried out activities in Romania for periods lower than the ones mentioned in the Double Tax Treaty and who extend their stay in Romania. Thus, the reporting deadline of 15 days from the expiration of the period mentioned in the Treaty is replaced with the 25th of the following month.

Title V – Mandatory social security contributions

- The methodological norms on the cap applicable to the taxable basis of the health insurance contribution due for salary related income derived starting with 1 January 2017 are repealed.
- Clarifications brought on the monthly taxable basis for the health insurance contribution due on dividend income. Specifically, the basis takes into account gross dividends distributed, irrespective of whether or not they were paid.

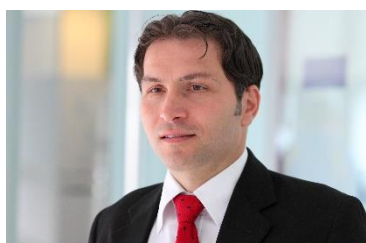
Title VII Value Added Tax

- In case of immovable property owned by a family, one of the spouses will be designated for the purpose of fulfilling the rights and obligations in relation to VAT.
- The list of goods considered as immovable property mentioned in the Regulation 282/2011 implementing the VAT Directive must be consulted when establishing the place of supply of services.
- The VAT adjustment can be made within 5 years starting from 1 January of the year following the court decision to confirm the reorganization plan or the decision on the closure of the bankruptcy proceedings. The adjustment is allowed even if the subsequent verification clause (ro. rezerva verificarii ulterioare) of the Tax Procedure Code is applicable.
- Several NC codes for seeds, fruits, plants or medicinal plants intended for human or animal consumption were excluded from the application of the reduced 9% rate.

- The methodological norms related to the VAT adjustment for capital goods were modified to correspond to the new rule established by the Tax Code starting with 1 January 2017 (i.e. deduction of 1/5 or 1/20 per year in the case of a change in the use of the capital good).
- The methodological norms for VAT refunds for taxable persons established outside the EU were completed in the sense that refund of the tax may also be claimed in case electronic, telecommunication, broadcasting or television services rendered to non-taxable persons from Romania.
- Methodological norms were introduced regarding the application of the special regime for farmers.

The amendments are approved by the Government Decision *no 284/2017* for the amendment and completion of the Methodological Norms of the Law no 227/2015 regarding the Tax Code, published in the Official Monitor no. 319 / 04.05.2017.

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Upcoming Deloitte events in May

VTA in Practice – Deloitte seminar

The seminar „VAT in practice”, organized on May 16 & 17, at Intercontinental Hotel, will refer mainly to the practical aspects of VAT system, the approach of the fiscal authorities and tax inspections.

For details, please click the link below.

<https://www2.deloitte.com/ro/ro/pages/tax/events/TVA-in-practica-16-17-mai-Bucuresti.html>

Debt & Restructuring C/SEE Forum

Deloitte and Reff & Associates together with WJ Global Group have the pleasure to invite you to the Debt & Restructuring C/SEE Forum.

The event will take place in Bucharest, at Intercontinental Hotel, on May 24th.

One-day networking forum to address the 2017 outlook for CEE/SEE markets, in which speakers will address crucial issues covering a variety of asset classes and markets in the region:

- Active markets and upcoming hotspots;
- Investor outlook into the region and buy-side approach;
- Unsecured debt purchasing and collections processes;
- Evolution of NPL transaction landscape;
- Current economic climate and predictions;
- Transparency considerations & political uncertainties;
- Opportunities in CRE & residential mortgage debt;
- Private Equity - Turnarounds, Special Situations, M&A & SMEs;
- Legal Restructuring & Distressed Acquisitions.

Among the speakers and presentations, we mention:

- **Andrei Burz-Pinzaru**, Partner, Reff & Associates SCA, member of Deloitte Legal network in Romania

Presentation: Lessons from the past – Case study of a NPL acquisition

- **Radu Dumitrescu**, Partner, Transactions Services M&A, Deloitte

Presentation: CEE NPL market facts, figures and trends

For more details and registration to this conference, please access the following link: <http://www.wjglobalgroup.com/>

Deloitte Tax & Legal in mass-media

The registration procedure for VAT purposes, comparison between the procedures in EU member states – A survey conducted and commented by **Vlad Boeriu, partner Deloitte Romania** and **Ramona Trusculescu, senior manager, Deloitte Romania**:

<http://www.zf.ro/companii/studiu-deloitte-in-romania-se-solicita-cele-mai-multe-documente-pentru-obtinerea-codului-de-tva-16253752>



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